IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.W.P. No.7798 of 2007
Date of Decision: 22.5.2007

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Shanti Devi Vs. State of Haryana and another

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Present : Mr.Ashwani Talwar, Advocate for the petitioner.

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CORAM : HON'BLE MR.JUSTICE P. SATHASIVAM
HON'BLE MR.JUSTICE RAJIVE BHALLA

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1. Whether Reporters of Local Newspapers may be allowed to see the judgement ?
2. To be referred to the Reporters or not ?
3. Whether the judgement should be reported in the Digest ?

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RAJIVE BHALLA, J

Prayer in this petition is for setting aside orders dated 30.3.2007, 9.3.2006 passed by the Financial Commissioner, Haryana and the Commissioner, Rohtak Division, respectively.

The Assistant Collector, vide order dated 7.5.2003, allowed correction in the revenue record at the instance of respondent no.2. The Collector, Panipat, however, set aside the order and remanded the case, with a direction to afford an opportunity to the Gram Panchayat. As no application was filed, to implead the Gram Panchayat, the Assistant Collector, IInd Grade, dismissed the application filed by respondent no.2. The Collector, however, once again remanded the case to the Assistant

Collector IInd Grade. The petitioner impugned the said order before the Commissioner, Rohtak, who declined to interfere. The Financial Commissioner, also dismissed the revision.

Counsel for the petitioner contends that as the petitioner is in cultivating possession of agricultural land described as Jumla Mushtarka Malkan being proprietor thereof, the application filed by respondent no.2 for declaring them as co-sharers in the land on the basis of an alleged partition dated 7.8.1997 is not maintainable. It is contended that while passing the impugned orders, the learned Financial Commissioner and the Commissioner, failed to appreciate that the suit land was never partitioned and, therefore, there is no question of directing the Assistant Collector, IInd Grade, to consider the matter afresh. The petitioner has been cultivating the land and the Khasra Girdawaris exist in her name. It is, therefore, prayed that as the proceedings for change of Khasra Girdawaris are without jurisdiction, the impugned orders be quashed.

We have heard learned counsel for the petitioner and perused the paper book.

The learned Financial Commissioner, as also the Commissioner have upheld the order of remand. The entire dispute would be decided by the Assistant Collector, IInd Grade, in accordance with law. It would be necessary to mention here that the land is referred to in the revenue record as Jumla Mushtarka Malkan. It would, therefore, be necessary to implead the Gram Panchayat. Responsibility in respect thereof lies with the Assistant Collector, IInd Grade, who while dealing with the matter would have to consider whether the land vests in the Gram Panchayat and whether he has jurisdiction to adjudicate the said controversy after taking into

consideration, amongst others the provisions of the Punjab Village Common Lands (Regulation) Act, 1961.

With the aforementioned observations, the present petition is dismissed.

(RAJIVE BHALLA)
JUDGE

22.5.2007
GS

(P. SATHASIVAM)
JUDGE